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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 ANGELICA CHRISTINA LIMCACO,  
8 Plaintiff,  
9 v.  
10 WYNN LAS VEGAS, LLC., *et al.*,  
11 Defendants.

Case No. 2:18-cv-01685-MMD-GWF

**ORDER**

**Re: Defendants' Motion to Stay Discovery  
Pending Motion to Dismiss (ECF No. 24)**

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13 This matter is before the Court on Defendant Wynn Las Vegas LLC's Motion to Stay  
14 Discovery pending Motion to Dismiss (ECF No. 24), filed November 14, 2018. Defendant  
15 Steven Wynn filed Joinder to Defendant Wynn Las Vegas LLC's Motion (ECF No. 27) on  
16 November 16, 2018. Plaintiff filed her Opposition (ECF No. 32) on November 28, 2018 and  
17 Defendants filed their Reply (ECF No. 33, 35) on December 5, 2018. The parties also filed their  
18 Respective Positions on Discovery Plan and Scheduling Order (ECF No. 30) on November 26,  
19 2018.

20 **BACKGROUND**

21 Plaintiff, Angelica Limcaco seeks redress against her former employer for alleged  
22 abusive conduct that occurred during her employment with Defendant, which ended in July  
23 2006. Defendants request a stay of discovery pending a decision on their motion to dismiss.  
24 Defendants argue that no party will be prejudiced by a short stay of discovery pending a decision  
25 on its motion to dismiss because a favorable ruling will eliminate the need for any discovery.  
26 *See Motion to Stay* (ECF No. 24), 2. Plaintiff argues that she should be permitted to conduct  
27 limited interim discovery because the motion to dismiss cannot be decided without it.  
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1 *Opposition* (ECF No. 32), 5. Further, Plaintiff argues that the motion to dismiss will not dispose  
2 of the issue upon which discovery is sought. *Id.*

### 3 DISCUSSION

4 The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of  
5 discovery when a potentially dispositive motion is pending. See *Skellerup Indus. Ltd. V. City of*  
6 *L.A.*, 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant  
7 a stay of discovery. See *Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653  
8 (D. Nev. 1989). See also *Turner Broadcasting System, Inc. v. Tracinda □ Corp.*, 175 F.R.D.  
9 554, 556 (D. Nev. 1997). The moving party carries the heavy burden of making a strong  
10 showing of why discovery should be denied. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579,  
11 581 (D. Nev. 2013).

12 Courts have broad discretionary power to control discovery. See *Little v. City of Seattle*,  
13 863 F.2d 681, 685 (9th Cir.1988). When deciding whether to grant a stay of discovery, the Court  
14 is guided by the objectives of Fed. R. Civ. Pro. 1 that ensures a “just, speedy, and inexpensive  
15 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. The Court may grant a  
16 motion to stay discovery when “(1) the pending motion is potentially dispositive; (2) the  
17 potentially dispositive motion can be decided without additional discovery; and (3) the Court has  
18 taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced  
19 that the plaintiff will be unable to state a claim for relief.” *Kor Media Group*, 294 F.R.D. at 581.

20 After conducting its “preliminary peek” of Defendants’ motion to dismiss, the Court  
21 finds that a stay of discovery is warranted. First, the pending motion to dismiss, if granted, may  
22 dispose of the primary issues in Plaintiff’s complaint based on applicable statute of limitations.  
23 Second, although Plaintiff argues there are factual issues regarding whether there are written  
24 records concerning Plaintiff’s allegations, the Court finds that the motion to dismiss can be  
25 decided without additional discovery. The remaining issues are questions of law concerning the  
26 Court’s application of equitable estoppel to excuse Plaintiff’s delay in filing. Finally, the Court  
27 is convinced that a stay of discovery is warranted based upon the merits of Defendants’ motion  
28 to dismiss.

1 With respect to the Parties' Respective Positions on a Discovery Plan and Scheduling  
2 Order (ECF No. 30), the Court denies, without prejudice, in accordance with the aforementioned  
3 ruling. Should the District Judge deny Defendants' motion to dismiss, the parties are instructed  
4 to file a revised Stipulated Discovery Plan and Scheduling Order within fourteen (14) days from  
5 the entry of the Court's order. Accordingly,

6 **IT IS HEREBY ORDERED** that Defendant Wynn Las Vegas LLC's Motion to Stay  
7 Discovery pending Motion to Dismiss (ECF No. 24), is **granted**.

8 **IT IS FURTHER ORDERED** that the Parties' Respective Positions on a Discovery  
9 Plan and Scheduling Order (ECF No. 30) is **denied**, without prejudice. Should the District Judge  
10 deny Defendants' motion to dismiss, the parties are instructed to file a revised Stipulated  
11 Discovery Plan and Scheduling Order within **fourteen (14) days** from the entry of the Court's  
12 order.

13 Dated this 12th day of December, 2018.

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16 GEORGE FOLEY, JR.  
17 UNITED STATES MAGISTRATE JUDGE  
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